To: Chief, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, D.C.

From: John Huggins (KX4O), Warrenton, VA 20186

Re: Docket RM-11831 "Amendment of Part 97 of the Commission's Amateur Radio Service Rules to Reduce Interference and Add Transparency to Digital Data Communications."

I oppose Docket RM-11831 specifically due to the following language in paragraph 12...

> "Any necessary software provided by developers must be open source, unencumbered by patent, licensing fees, royalties or copyright, in keeping with the intent and spirit of the amateur radio service as exemplified in Part 97.1(b)(c)."

Referencing Part 97.1(b)(c)…

97.1 Basis and Purpose

The rules and regulations in this part are designed to provide an amateur radio service having a fundamental purpose as expressed in the following principles:

> *(a) Recognition and enhancement of the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications.*
> *(b)* ***Continuation and extension of the amateur's proven ability to contribute to the advancement of the radio art.***
> *(c)* ***Encouragement and improvement of the amateur service through rules which provide for advancing skills in both the communication and technical phases of the art.***
> *(d) Expansion of the existing reservoir within the amateur radio service of trained operators, technicians, and electronics experts.*
> *(e) Continuation and extension of the amateur's unique ability to enhance international goodwill.*

Emphasis added. The "intent and spirit of the amateur radio service" certainly has never meant to suggest a builder or developer of useful technology must forsake reasonable compensation for work performed in the design and establishment of ever more clever and capable modulation methods and hardware.

Regarding subsection (b): I am unaware of a case where the technologist's ability to give freely the fruits of his/her labor is the test to prove ability to contribute to the radio arts. Yes there are examples of such individuals either through agreements with their employers or with such means as to be philanthropic with their labor and resources. Joe Taylor (K1JT) is an exemplar example with his weak signal communication software programs. In effect Joe is pre-paying the price of his software as a gift to the amateur community. In contrast Nick Fedoseev (UT2UZ) and Denis Nechitailov (UU9JDR) market a digital communications program called "MixW" and charge a fee for its use by individuals including amateur radio operators. All three authors are to be held

in high esteem for taking the time to make tools of utility to the amateur radio community. Both of the above products are "priced" the same way… by market forces, not by governmental fiat. Joe gives freely, Nick and Denis do not. The judgment of whether or not a product in use by the amateur radio operator contributes to the art is based solely if the product is used with success and is of value to the user, not by how much one pays for the product. It is my opinion the FCC has no business regulating the "value" of tools via monetary rules in Part 97.

Regarding subsection (c): Be it via self-improvement or commercial development, nothing about this section demands the amateur radio operator be gifted the fruits and labor of the developer(s). Advancing skills could mean raising proficiency in digital signal processing code, learning Morse code, studying antenna design, etc. I've advanced my antenna design skills and have patented a fix to the J-pole antenna. Using the petitioner's logic, I should turn the other way if someone wants to build my improved antenna for the amateur bands without properly compensating the patent sponsor. Returning to the digital modulation context, a rule that stifles the possibility of commercial development as proposed robs the amateur community of a key resource for more efficient modulation techniques. There can be little doubt the commercial HF modem world represents the apex of efficient digital communication on HF. That these capabilities are even available to the amateur world is a result of significant investment in a commercial context for a product of use to all HF users, not just amateurs. Amateurs can partake of the very best digital modulation techniques thanks to the broad appeal of the underlying technology to a greater market.

I commend and sympathize with the petitioner on many points especially relating to how the technology mentioned above is used or misused on the amateur bands. However, demanding all intellectual property involved in amateur radio communications be gifted to the amateur community is a point of contention to anyone who understands the value of an open marketplace. I don't believe the Part 97 rules have a say in dictating how intellectual property is managed and the FCC should not become arbiter of same. The FCC should not dictate or manage the poverty line, be it $0 or any other value, a technology must meet for legal use on the amateur radio bands.

There are lots of points to address in the petitioner's request, but until we get past the issues above, and assuming it is an all or nothing decision, the petition in its current aggregation should be dismissed.

Respectfully submitted,

John S. Huggins, kx4o